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**Central Valley Regional Water Quality Control Board**

15 June 2017

Perry Hariri  
ACD-TI Oakley, LLC  
235 West Main Street  
Los Gatos, CA 95030

CERTIFIED MAIL  
91 7199 9991 7035 8421 9560

***ORDER AMENDING CLEAN WATER ACT SECTION 401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION; ACD-TI OAKLEY, LLC, CYPRESS PRESERVE – CITY OF OAKLEY PROJECT (WDID#5B07CR00176A1), CONTRA COSTA COUNTY***

This Order responds to the 21 October 2017 request for an amendment of the Cypress Preserve – City of Oakley Project Section 401 Water Quality Certification (WDID#5B07CR00176). The original Water Quality Certification (Certification) was issued on 27 September 2016. The requested amendment is hereby approved. The original Certification is therefore amended as described below. Please attach this document to the original Certification.

**AMENDMENT:**

ACD-TI Oakley, LLC is requesting an amendment to the original Certification to modify the total authorized impacts to waters of the United States and correct impact totals to stream bed and wetland habitat.

ACD-TI Oakley, LLC has provided documentation from the United States Army Corps of Engineers (SPK#2014-01048) and the California Department of Fish and Wildlife (1600-2015-0335-R3) authorizing the increase in impacts to waters of the United States.

The Certification has been amended in underline and strikeout format below:

This Order responds to the 28 October 2015 application submitted by ACD-TI Oakley, LLC (Applicant) for the Water Quality Certification of the Cypress Preserve, City of Oakley Project (Project), permanently impacting ~~4.302~~ 4.582 acres/~~15,416~~ 14,872 linear feet and temporarily impacting 0.002 acre/43 linear feet of waters of the United States.

34. To mitigate for the loss of ~~2.702~~ 0.002 acres of stream channel habitat and ~~1.600~~ 4.580 acres of wetland habitat, the Applicant has purchased 3.010 shallow water habitat mitigation credits from Kimball Island Mitigation Bank, a United States Army

Corps of Engineers approved mitigation bank, for the impacted watershed prior to commencing construction. The Applicant has provided evidence of all off-site compensatory mitigation credit purchases to the Central Valley Water Board. Additionally, the Applicant shall preserve ~~78.720~~ 129.1 acres of seasonal wetlands as a wetland and dune preservation area in the northern portion of the Project area and ~~9.600 acres of seasonal wetlands as open space in the~~ and southeastern portion of the Project area; 2) 6.94 wetland creation areas throughout the Project area, and 3) 0.60 riparian creation areas, as shown in Figure 2. Evidence of on-site compensatory mitigation shall be provided with the Notice of Completion.

At a minimum, compensatory mitigation must achieve a ratio of 1:1 for permanent impacts.

The Project Information Sheet has been amended in underline and strikeout format below:

The Cypress Preserve, City of Oakley Project (Project) is located east of Jersey Island Road, north of Rock Slough, and south of Dutch Slough in the city of Oakley. The Project consists of mass grading and constructing infrastructure improvements for future development uses, and a new bridge over Rock Slough. ~~Future development uses consist of 310.8 acres of residential facilities, 24.7 acres of commercial facilities, 196.9 acres of infrastructure improvements, 455.8 acres of open space preserve area, 133.9 acres of wetland development, and 76.3 acres of flood control levee construction.~~

#### Infrastructure Improvements

Impacts to waters of the United States will be from the construction of a new earthen levee and mass grading of the Project area in preparation for constructing storm drains, sanitary sewer lines, and road improvements. New earthen levees designed to protect the site from a 300-year flood event will extend around the Project perimeter, excluding the Wetland and Dune Preservation Area to the north and Open Space Area to the south, as shown on Figure 2, and connect to the existing Summer Lake levee system. To comply with the Municipal Separate Storm Sewer System (MS4) permit for the City of Oakley, the Project incorporates low impact development features and new retention lakes to provide the capacity to contain and store surface water runoff during future localized flood events.

Mass grading and levee construction will permanently impact ~~4.3~~ 4.350 acres/~~15,400~~ 14,856 linear feet of waters of the United States.

#### Rock Slough Bridge

A new bridge crossing Rock Slough is necessary to provide public access to the area. The new bridge will span Rock Slough and connect with Byron Highway to the south, as shown in Figure 2. The structure includes three 220-foot long, 56-foot wide, and minimum 10-foot high spans using pre-cast concrete slab girders sitting on reinforced concrete piers and abutments. The new bridge will provide one lane in each direction, shoulders, and a new sidewalk on either side of each lane.

Two temporary work trestles will be constructed on both ends of the bridge. Prior to construction of the work trestles, twenty-four 14-inch steel pin piles will be installed using a vibratory hammer. Each work trestle will be supported by six 24-inch steel trestle piles installed in water and two 24-inch steel trestle piles installed on land, for a total of twelve 24-inch piles installed in water and four installed on land. The 24-inch steel shell pipes for the construction of the temporary trestles will be imbedded approximately 40 feet and will be installed by vibratory hammer. The work trestles will be 30 feet wide and will extend approximately 50 feet over the water in Rock Slough from each side. Temporary trestles will be removed prior to the rainy season.

The permanent bridge cast-in-place piles will require driving eight 48-inch diameter steel piles with a reinforced concrete core in Rock Slough. Cast-in-place abutments will be placed on land at the north end and south ends of the bridge. The abutments will be constructed above the 300-year flood elevation, and will not require any in-water work. The slopes of both sides of Rock Slough have existing rock rip-rap extending above the ordinary high water mark to the tops of the levee roads. A portion of this existing rip-rap would be temporarily removed to allow construction of the abutments and work trestles. No new rock riprap will be required to armor the abutments.

Construction of Rock Slough Bridge will result in 0.23 acre of permanent shading impact to waters of the United States. Bridge piling construction will permanently impact 0.002 acre/16 linear feet and temporary trestle installation will temporarily impact 0.002 acre/43 linear feet of waters of the United States.

#### Summary of Impacts

Dewatering will occur within the Project area. Wet concrete will be placed into waters of the United States in dry conditions after fully dewatering the work area. The Project will permanently impact ~~4.302~~ 4.580 acres/~~15,416~~ 14,856 linear feet and temporarily impact 0.002 acre/43 linear feet of waters of the United States.

**Excavation/Fill Area:** Approximately 6,925 cubic yards of clean soil and 642 cubic yards of concrete and steel will be placed into ~~4.302~~ 4.852 acres of waters of the United States.

**Dredge Volume:** None

**California Integrated Water Quality System Impact Data:** The Project will permanently impact ~~4.600~~ 4.580 acres/14,872 linear feet of wetland and ~~2.702~~ 0.002 acres/~~15,416~~ 16 linear feet of stream bed habitat and temporarily impact 0.002 acre/43 linear feet of stream bed habitat from fill activities.

**Table 2: Impacts from Fill Activities**

Aquatic Resource Type	Temporary			Permanent					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet
Stream Channel	0.002	-	43	<del>2.702</del> 0.002	-	<del>45,416</del> 16	-	-	-
Wetland	-	-	-	<del>4.600</del> 4.580	-	<del>14,856</del>	-	-	-
<b>Total</b>	<b>0.002</b>	<b>-</b>	<b>43</b>	<del><b>4.302</b></del> <b>4.582</b>	<b>-</b>	<del><b>45,416</b></del> <b>14.872</b>	<b>-</b>	<b>-</b>	<b>-</b>

**Compensatory Mitigation:** To mitigate for the loss of ~~2.702~~ 0.002 acres of stream channel habitat and ~~4.600~~ 4.580 acres of wetland habitat, the Applicant has purchased 3.010 shallow water habitat mitigation credits from Kimball Island Mitigation Bank, a United States Army Corps of Engineers approved mitigation bank, for the impacted watershed prior to commencing construction. The Applicant has provided evidence of all off-site compensatory mitigation credit purchases to the Central Valley Water Board. Additionally, the Applicant shall preserve: ~~78.720~~ 1) 129.100 acres of seasonal wetlands as a wetland and dune preservation area in the northern portion of the Project area and ~~9.600~~ acres of seasonal wetlands as open space in the and southeastern portion of the Project area; 2) 6.94 wetland creation areas throughout the Project area, and 3) 0.60 riparian creation areas, as shown in Figure 2. Evidence of on-site compensatory mitigation shall be provided with the Notice of Completion.

At a minimum, compensatory mitigation must achieve a ratio of 1:1 for permanent impacts.

**Table 3: Compensatory Mitigation for Permanent Physical Loss of Area**

Aquatic Resource Type	Comp Mitigation Type			Units		Established	Re-established	Rehabilitated	Enhanced	Preserved	Unknown
	In-Lieu	Mit. Bank	Permittee Responsible	AC (Acres)	LF (Linear Feet)						
Stream Channel	-	X	-	<del>3.010</del> 10.550	-	X	-	-	-	-	-
Wetland	-	-	X	<del>88.320</del> 129.100	-	X	-	-	-	-	-
<b>TOTAL</b>	<b>-</b>	<b>-</b>	<b>-</b>	<del><b>91.330</b></del> <b>139.650</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>

**APPLICATION FEE RECEIVED:**

No fees were submitted for this amendment. Total fees of \$90,000.00 for the original Certification were submitted to the Central Valley Regional Water Quality Control Board as

required by Section 3833(b)(3)(A) and by Section 2200(a)(3) of the California Code of Regulations.

**CENTRAL VALLEY WATER BOARD CONTACT:**

Stephanie Tadlock, Environmental Scientist  
11020 Sun Center Drive #200  
Rancho Cordova, CA 95670-8114  
Stephanie.Tadlock@waterboards.ca.gov  
(916)464-4644

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

The City of Oakley certified an Environmental Impact Report on 13 March 2005. The City of Oakley filed a Notice of Determination with the State Clearinghouse on 15 March 2006. The City of Oakley certified a Supplemental Environmental Impact Report on 25 October 2011. They City of Oakley filed a Notice of Determination on 27 October 2011. The City of Oakley certified an Addendum to an Environmental Impact Report on 14 July 2015. The City of Oakley filed a Notice of Determination with the State Clearinghouse on 17 July 2015 (SCH No. 2004092011).

**WATER QUALITY CERTIFICATION:**

I hereby issue an Order amending the existing Clean Water Act, Section 401 Technically Conditioned Water Quality Certification for the Cypress Preserve – City of Oakley Project (WDID#5B07CR00176A1). All other conditions and provisions of the original Water Quality Certification and any previously approved amendments remain in full force and effect, except as modified based on the conditions of this Order. Failure to comply with the terms and conditions of the original Water Quality Certification, previously approved amendments, or of this Order may result in suspension or revocation of the Water Quality Certification.

*Original Signed By Adam Laputz for:*

Pamela C. Creedon  
Executive Officer

cc: Distribution List, page 4

**DISTRIBUTION LIST**

Zachary Fancher (SPK-2014-01048)  
United States Army Corps of Engineers  
Sacramento District Headquarters  
1325 J Street, Room 1350  
Sacramento, CA 95814-2922

Department of Fish and Wildlife, Region 3 (Electronic Copy Only)  
AskBDR@wildlife.ca.gov

Bill Jennings  
CA Sportfishing Protection Alliance  
3536 Rainier Avenue  
Stockton, CA 95204

Bill Orme (Electronic copy only)  
State Water Resources Control Board  
StateBoard401@waterboards.ca.gov

Joe Morgan (Electronic Copy Only)  
United States Environmental Protection Agency  
Morgan.Joseph@epa.gov

Owen Poole (Electronic copy only)  
Real Estate Services  
owen@realestatesvs.com